MONTANA LEGISLATIVE HISTORY

Chapter 127 1983

Bill H _____ S 67 Original bill & history X C

H. Committee on NATURAL RESOURCES			S. Committee on NATURAL RESOURCES		
Hearing Date(s)	3/2	X C	Hearing Date(s)	1/14	X C
EXEC ACTION	3/4	X C	EXEC. ACTION	1/24	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

REFERRED TO COMMITTEE ON JUDICIARY: 01/06/83
HEARING: 1/11/83
REPORT: 01/20/83, DO PASS, AS AMENDED
2ND READING: 01/22/83, AS AMENDED AYES: 45; NAYS: 0
3RD READING: 01/25/83 AYES: 50; NAYS: 0

TRANSMITTED TO HOUSE: 1/25/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/26/83
HEARING: 3/11/83
REPORT: 03/11/83, BE CONCURRED IN
2ND READING: 03/12/83, BE CONCURRED IN AYES: 88; NAYS: 0
3RD READING: 03/14/83, BE CONCURRED IN AYES: 99; NAYS: 0

RETURNED TO SENATE: 3/14/83

TRANSMITTED TO GOVERNOR: 03/21/83
SIGNED: 3/24/83, CHAPTER 189

SB 66 -- KEATING -- TO ABOLISH THE REQUIREMENTS THAT CLERKS AND SUBORDINATES OF PUBLIC OFFICERS BE APPOINTED IN WRITING AND TAKE AN OATH OF OFFICE.
BY REQUEST OF: THE SECRETARY OF STATE

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/06/83
HEARING: 1/11/83
REPORT: 01/14/83, DO PASS
2ND READING: 01/17/83 AYES: 50; NAYS: 0
3RD READING: 01/19/83 AYES: 46; NAYS: 0

TRANSMITTED TO HOUSE: 1/19/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/20/83
HEARING: 1/31/83
REPORT: 01/31/83, BE CONCURRED IN
2ND READING: 02/02/83, BE CONCURRED IN AYES: 92; NAYS: 4
3RD READING: 02/05/83, BE CONCURRED IN AYES: 84; NAYS: 6

RETURNED TO SENATE: 2/5/83

TRANSMITTED TO GOVERNOR: 02/10/83
SIGNED: 02/14/83, CHAPTER 21

SB 67 -- KEATING -- TO MODIFY THE LIMITATION THAT THE BOARD OF LAND COMMISSIONERS MAY NOT ISSUE COAL LEASES TO FOREIGN INTERESTS....

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 01/06/83
HEARING: 1/14/83
REPORT: 01/25/83, DO PASS, AS AMENDED
2ND READING: 01/27/83 AYES: 47; NAYS: 1
3RD READING: 01/29/83 AYES: 48; NAYS: 0

TRANSMITTED TO HOUSE: 1/29/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 01/29/83
HEARING: 3/2/83
REPORT: 03/05/83, BE CONCURRED IN
2ND READING: 03/07/83, BE CONCURRED IN AYES: 89; NAYS: 7
3RD READING: 03/08/83, BE CONCURRED IN AYES: 86; NAYS: 12

RETURNED TO SENATE: 3/8/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 03/18/83, CHAPTER 127

SB 68 -- GAGE, TOWE -- PROVIDING AN INCOME TAX DEDUCTION TO NONRESIDENTS FOR CONTRIBUTIONS MADE TO MONTANA OR A POLITICAL SUBDIVISION; ... AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.
BY REQUEST OF: THE REVENUE OVERSIGHT COMMITTEE

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON TAXATION: 01/06/83
HEARING: 1/12/83
REPORT: 01/12/83, DO PASS
2ND READING: 01/14/83 AYES: 44; NAYS: 0
3RD READING: 01/17/83 AYES: 50; NAYS: 0

TRANSMITTED TO HOUSE: 1/17/83
REFERRED TO COMMITTEE ON TAXATION: 01/18/83
HEARING: 3/8/83
REPORT: 03/22/83, BE CONCURRED IN
2ND READING: 03/23/83, BE CONCURRED IN AYES: 70; NAYS: 0
3RD READING: 03/25/83, BE CONCURRED IN AYES: 91; NAYS: 4

RETURNED TO SENATE: 3/25/83

TRANSMITTED TO GOVERNOR: 3/31/83
SIGNED: 04/05/83, CHAPTER 378

SB 69 -- FULLER, HARPER -- TO INCREASE THE PENALTY AND INTEREST FOR LATE PAYMENTS OF UNEMPLOYMENT CONTRIBUTIONS; ... AND PROVIDING AN EFFECTIVE DATE.
BY REQUEST OF: THE DEPARTMENT OF LABOR AND INDUSTRY

INTRODUCED: 01/06/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 01/06/83
HEARING: 1/13/83
REPORT: 01/18/83, DO PASS
ON MOTION, 1/20/83, THAT THE BILL BE TAKEN FROM SECOND READING AND BE REREFERRED TO THE COMMITTEE ON LABOR & EMPLOYMENT RELATIONS. MOTION PASSED.
REPORT: 1/28/83, DO PASS, AS AMENDED
2ND READING: 01/31/83 AYES: 48; NAYS: 1
3RD READING: 02/02/83 AYES: 48; NAYS: 2

TRANSMITTED TO HOUSE: 2/2/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 02/03/83
HEARING: 3/1/83
REPORT: 03/01/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/03/83, BE CONCURRED IN AYES: 80; NAYS: 12
3RD READING: 03/05/83, BE CONCURRED IN AYES: 79; NAYS: 8

RETURNED TO SENATE WITH AMENDMENTS: 03/05/83
2ND READING: 03/07/83, BE CONCURRED IN AYES: 19; NAYS: 25.
2ND READING: 03/07/83, BE NOT CONCURRED IN AYES: 33; NAYS: 12

CONFERENCE COMMITTEE APPOINTED: 3/8/83
CONFERENCE COMMITTEE DISSOLVED: 3/29/83

SENATE BILL NO. 67

INTRODUCED BY KEATING

IN THE SENATE

January 6, 1983	Introduced and referred to Committee on Natural Resources.
January 25, 1983	Committee recommend bill do pass as amended. Report adopted.
January 26, 1983	Bill printed and placed on members' desks.
January 27, 1983	Second reading, do pass.
January 28, 1983	Correctly engrossed.
January 29, 1983	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

January 29, 1983	Introduced and referred to Committee on Natural Resources.
March 5, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in.

IN THE SENATE

March 9, 1903

Returned to Senate.

Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 67

INTRODUCED BY Keating

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE LIMITATION THAT THE BOARD OF LAND COMMISSIONERS MAY NOT ISSUE COAL LEASES TO FOREIGN INTERESTS; AMENDING SECTION 77-3-305, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-3-305, MCA, is amended to read:

"77-3-305. Limitations on leasing. The board shall not issue leases:

~~(1) to any corporation the majority stock of which is controlled by interests foreign to the United States, except for those interests within countries whose borders are contiguous to the United States; or~~

~~(2)~~ if after a determination of the amount, location, and quality of the coal on the lands for lease, the extraction of the coal from such lands by strip-mining methods would adversely affect the methods of recovery of deep minable coal from such operations on such lands in the future."

-End-

INTRODUCED BILL

SB-67

48th LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

January 14, 1983

A regularly scheduled meeting of the Senate Natural Resources Commitee was called to order by Senator Harold L. Dover, Chairman, on Friday, January 14, 1983 at 1:00 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with all members of the Committee being present.

SENATE BILL 67: Chairman Dover opened hearing and called on Senator Tom Keating, sponsor of the bill. Senator Keating explained this bill would be a repealer to remove the limitation that state lands may not be leased for coal mining to foreign interests. He gave some history of the bill, that in the early 70's era, and time of restriction of development of coal in the state, laws were passed to prohibit foreign control and foreign corporations, from either buying coal products or from obtaining a coal lease. There is no federal restriction against foreign corporations holding a federal lease, nor any state prohibition against their leasing from private owners of property. Foreign corporations who wished to enter development may have federal land on one contract, a lease from a private owner or another with adjacent land; and within that area could be state land creating a hole in their lease. The law currently provides that foreign corporations can obtain oil and gas leases on state lands. This is a measure that is not consistent with other laws. This bill is proposed to repeal the law that prohibits foreign corporations from obtaining a state coal land lease.

PROPONENTS: Chairman Dover called for proponents. Joe Spalding, attorney for Shell Oil Company asked to speak and introduced Bill Gibson, from Houston, geologist with Shell Oil Co. He is requesting repeal of the statute, Sec. 77-3-305, which prohibits a corporation with major stock controlled by foreign interests from obtaining a lease for coal on state lands. Shell Oil is a Delaware corporation, with stock of about 69% owned by Shell Petroleum, a Netherlands company, which also has Dutch and English interests. The company is qualified to do business in all the states and has 36,000 employees, with production of 433,000 barrels of crude and 1.8T cubic feet of natural gas. They do operate coal mining operations in Ohio, Illinois and Wyoming and beginning in Texas, and would like to do likewise in Montana. Shell has been

operating in Montana for 32 years, and have oil and gas leases on about 1 1/4 Million acres in Montana. About 140,000 acres are State lands and the remainder are private and federal. Shell paid 1982 Montana taxes of $34,000,000 and $1.8 Million as royalty to the state for oil and gas leases. There are 200 employees in the state. Shell Foundation also contributes to education and charity. He stated that even though they have other stock ownership, they are good citizens of the State and United States.

Federal leases are controlled by the Secretary of the Interior, and he determines whether countries have reciprocity with the United States. Currently there are none on the non-reciprocal list. Shell is preparing to mine on the Crow reservation, and only has problems on state coal lands. Feasibly, Shell could obtain coal leases in an area completely surrounding state coal lands. He suggested that the restrictions should be left to the federal government, that some states have restriction on sales, and that the federal government has passed the agriculture disclosure act requiring reporting of land ownership by aliens. He urged the adoption of SB 67. Mr. Spalding's complete testimony is attached as Exhibit '1'.

Chairman Dover called for further proponents. Senator Eck spoke for the bill, stating there has been considerable discussion in past sessions regarding this very item. She pointed out that a man from Shell in 1973 had made everyone excited by asking whether it would be better to build for twenty small towns, or plan for one of 200,000 people. This had not had a good effect. At that time Governor Judge had tried to put together a package to allow these leases, and it apparently was done too quietly and made the people very upset. She stated in looking at state lands, maybe it is an insult to people wanting to do business in Montana that we don't allow coal leases, and she supports the bill. There were no further proponents.

OPPONENTS: Chairman Dover called for opponents. Toni Kelley, representing Northern Plains Resource Council, Deer Lodge, spoke and stated that last session a bill was passed prohibiting selling of lands to foreign countries. She pointed out that the U.S. government does not allow leases to foreign countries.

Chairman Dover called for discussion from committee members. Senator Eck inquired as to the bill proposed last session and the fact that the Governor had vetoed that bill. Howard Johnson, EQC staff, stated he had obtained a copy of that veto. He was asked to read it for the committee. It stated the bill was returned without the Governors

signature, being Bill 367, 47th Session, for the following reasons...This would be a change in public policy, I remain concerned about the wisdom of committing finite U.S. energy resources to long term export contracts until America's energy needs are determined...and met. Despite reservations, I concur insofar as it permits coal from state leases to be sold to foreign interests. SB 367, however, also permits foreigners to acquire state coal leases without restriction. This unconditional right far exceeds the federal policy on mineral leasing. It is one thing to allow the export of Montana coal. It is quite another matter to permit...even to encourage... foreign interests to directly acquire Montana coal through lease agreement. He suggested an amendment that will provide export of Montana coal, but reject the right of lease acquisition by foreign interests. The message and SB 367 are attached as Exhibit '2'.

Senator Lee inquired if there would be any problem putting the reciprocity clause into the bill. Senator Keating then pointed out that most state lands are not large enough to be developed by themselves and need adjoining land as well for development. He stated he had heard the veto message had come about through inquiry by Rep. Harper to the Governor, and the need for the message that Montana did not want foreign interests. Committee members stated they wished to look further into the background.

No action was taken on the bill at this time.

ADJOURN: There being no further business to come before the committee the meeting was duly adjourned at 2:00 p.m.

Harold L. Dover

SENATOR HAROLD L. DOVER, CHAIRMAN
Senate Natural Resources Committee

Patricia Hatfield

Patricia Hatfield
Committee Secretary

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 1-14-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)	✓		
MANNING, Dave (D)	✓		
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓		
STORY, Pete (R)	✓		by.
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	–		by.
DOVER, Harold L. (R) Chairman	✓		

DATE January 14, 1983

COMMITTEE ON SENATE NATURAL RESOURCES

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
J. Mackler	MT. Coal Council	SB 67	✓	
W.C. GIBSON	SHELL OIL COMPANY	"	✓	
J.C. SPALDING	SHELL OIL Co.	SB 67	✓	
Mike Zimmerman	MPCo	SB 67	X	
Byron L Ophus	Visitor			
David M. Freibund	Visitor	SB 67		
Margaret MacDonald	Northern Plains Resource Council	SB 67		✓
Bob Anez	AP			
Carolli Fallan	Mont. Chamber			
Dennis Unsworth	NPRC	SB 67		✓
Marc Reddleton	"	"		
TONI KELLOGG	CHAIRMAN NPRC	"		✓
Tim Stearns	Northern Plains	SB 67		✓
Robert McRae	Sec of State	SB 67		
JOE LAMSON	MT. DEMOCRATIC PARTY	SB 67		
Deanna Bernhoft	Mt. Democratic Party	S.B 67		
Bonnie Tippy	Mt. Coal Council	SB 67		
Dave Toole	Rep. Kennis	SB 67		
Don Reed	Mt Env. Info. Center			

(Please leave prepared statement with Secretary)

EXHIBIT #1
1/14/83

Mr. Chairman and Members of the Committee:

My name is J. C. Spalding, from Houston, Texas, an attorney for Shell Oil Company. Appearing with me is Mr. W. C. Gibson, a geologist with Shell Oil Company's Mining Organization, also from Houston, Texas. We appreciate the opportunity to appear before you today and do so in support of Senate Bill 67 which would remove the restriction against issuance of state coal leases to "any corporation the majority stock of which is controlled by interests foreign to the United States" except countries with borders contiguous to the United States. That restriction now appears in Section 77-3-305 of the Montana statutes.

It seems clear that those words would make it impossible for Shell Oil Company to acquire a coal lease on state lands, certainly not directly and very probably not by assignment. Shell Oil is a Delaware corporation, with approximately 69.5 percent of its stock owned by Shell Petroleum N.V., a Netherlands company, which in turn is owned 40% by The "Shell" Transport and Trading Co., Limited, an English company, and 60% by Royal Dutch Petroleum Co., so I suppose we are classified as controlled by "interests foreign to the United States," even though we are incorporated under the laws of Delaware, and qualified to do business in all the states, specifically including Montana. Our presence here in the United States involves c. 36,000 employees, and average daily production of 433,000 barrels of crude and condensate and 1.8 Tcf of natural gas. The Company presently operates, through wholly-owned subsidiaries, coal mining operations in the states of Ohio, Illinois and Wyoming and we are

gearing up to mine in Texas and Montana.

I am pleased to state that Shell Oil is no stranger to Montana. We have operated here for about 32 years and produce oil and gas here. We currently have oil and gas leases on about 1 1/4 million acres in Montana, made up of about 140,000 state acres and the remainder from private landowners and the Federal Government. Our daily production of oil in Montana is 24,300 barrels and the gas production is 6,600 Mcf.

This production makes us a significant taxpayer and in calendar 1982 our Montana taxes approximated $34,000,000, plus $1,800,000 as royalty to the state under state oil and gas leases. We have about 200 employees residing in Montana and encourage them to become good, active citizens of the state. Through the Shell Foundations and other agencies, the Company will have contributed about $20,000 in 1982 and 1983 to various entities for educational and charitable purposes. We also have 120 retirees and 100 shareholders in Montana.

I have mentioned these statistics in an effort to demonstrate that we are good citizens of the United States, regardless of the stock ownership and that we have made, and continue to make, a valuable contribution to the industrial development of Montana.

Our oil and gas leases on state lands were issued pursuant to the Montana statutes, Title 77 of the state statutes. Part 4 of the statute, beginning at Section 77-3-401, empowers the state land board to issue oil and gas leases to "any person, association, corporation, domestic or foreign" qualfied under the constitution and laws of the state of Montana.

Our oil and gas leases on Federal lands were acquired pursuant to a Federal statute, the Minerals Lands Leasing Act of 1920. That statute, 30 U.S.C.A. Subsection 181, authorizes citizens of a foreign country to acquire leases on oil, gas and coal if the laws, customs or regulations permit U.S. citizens to acquire leases in the foreign country. This is the so-called "reciprocity clause" about which much has been said in the press in recent times. The Secretary of Interior is charged with the responsibility of determining reciprocity on a country-by-country basis. Recent decisions have involved Cyprus, Kuwait, and, I think, Canada. I am not aware of any country being placed on the non-reciprocal list by Interior because the prevailing philosophy is to encourage investment here, while making it possible for United States citizens, individuals and corporations, to invest in natural resources overseas.

Here in Montana, Shell is preparing to mine coal on the Crow reservation in Big Horn County, under an arrangement with the Crow Tribe. It is only on state coal lands that we have the problem and, insofar as I know, the restriction is unique.

The restriction in 77-3-305 will hamper us if we attempt to lease and develop a logical mining unit which may include private, Federal and state lands. To demonstrate that such a situation is a real probability, I would point out that of 12 tracts delineated by the Regional Coal Team composed of state and Federal officials for leasing in the Montana portion of the Powder River Basin in April 1982, and of 9 tracts for possible leasing in the Fort Union Region Area in 1983, all 21 tracts

contain Montana coal lands. In an extreme situation, we could acquire coal rights on lands surrounding state lands, and find that mining operations are not feasible or uneconomic because of the unleased "window." Turned around, if Shell acquires Federal leases surrounding state lands, this would damage the value of the state tract to some other lessee. If we were to surface mine leases adjacent to a state tract, it might be necessary to leave some coal unmined on one or both sides of the boundary line due to the so-called "set back" requirements.

I confess that I am not familiar with the history of the present restriction. I do not know why it was put in the statute. But I do see an inconsistency in denying Shell the chance to acquire state coal leases while we continue to demonstrate our good citizenship, and our good production practices, on state oil and gas leases. If the original legislative intent was to bar corporations with foreign shareholders from mining coal within the boundaries of Montana, then that intent is thwarted by the Federal Government granting coal leases in Montana to such corporations. And if the intent was to bar unfriendly aliens which discourage American investment in their countries, then it is truly ironic that the statute permits leases to Canadian companies while Canada has gone quite far in discouraging American investments.

We seek the opportunity to participate, on equal terms with other prospective coal lessees, in the future development of Montana's coal resources, and such development does not come easily or cheaply. Consider that a company must frequently invest $10,000,000 in a mine before development even starts and

the magnitude of the problem is apparent. A surface mine in the Powder River Basin of 8 million ton capacity annually will cost $230,000,000 over the life of the project. And if a company, domestic or alien by your definition, develops such a mine, it creates some 320 jobs and generates royalties of about $7,000,000 annually.

I feel that the Montana legislature undoubtedly had, and has, the power to have such restriction but I do question the wisdom of it. A good argument can be made that the question is one of foreign policy, best left to the Federal Government under our Constitution. Several states have proposed restrictions on alien ownership recently, probably due to the so-called "Arab threat" or the fear of mid-East petro-dollars gobbling up all the good farm land in America. But the problem has proven to be much smaller than originally thought. The Federal Government passed the Agricultural Foreign Investment Disclosure Act (AFIDA) a few years ago, requiring the reporting of land ownership by aliens, and the furnishing of such data to the various states. The result has been that of some 30 states that proposed restrictions, the restrictions were generally not enacted. I do not have a precise figure, but only 2 or 3 of the 50 states have prohibitory legislation, and none of the mineral producing states.

Therefore, I urge the adoption of Senate Bill 67, in order to make the coal leasing statute consistent with the other natural resources statutes, and to encourage the introduction of coal investment. Adoption would make it possible for qualified

Federal coal lessees with foreign stock ownership, to compete equally with other Federal coal lessees in the acquisition of state coal leases.

EXHIBIT '2'
1/14/83

Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill 367, "AN ACT TO ALLOW THE BOARD OF LAND COMMISSIONERS TO ISSUE COAL LEASES TO FOREIGN INTERESTS AND TO ALLOW THE SALE OF COAL MINED UNDER LEASES FROM THE BOARD OF LAND COMMISSIONERS TO FOREIGN PERSONS; AMENDING SECTION 77-3-305, MCA; AND REPEALING SECTION 77-3-315, MCA," without my signature and recommend the attached amendments for the following reasons.

The strong support of SB 367 by the Legislature signals a clear change in public policy by the State of Montana. I remain concerned about the wisdom of committing finite U.S. energy resources to long term export contracts until America's energy needs are determined...and met.

Despite my reservations, however, I concur in SB 367 insofar as it permits coal from state leases to be sold to foreign interests. SB 367, however, also permits foreigners to acquire state coal leases without restriction. This unconditional right far exceeds the federal policy on mineral leasing.

It is one thing to allow the export of Montana coal. It is quite another matter to permit...even to encourage...foreign interests to directly acquire Montana coal through lease agreement.

For this reason, I am returning SB 367 with an amendment that will provide the opportunity to export Montana coal, but reject the right of lease acquisition by foreign interests. The title is changed accordingly.

I urge your concurrence in these amendments.

Sincerely,

TED SCHWINDEN
Governor

PROPOSED GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 367

1. Page 1, line 5.
Following: "ACT"
Strike: "TO ALLOW THE BOARD OF"

2. Page 1, line 6.
Following: line 5
Strike: "LAND COMMISSIONERS TO ISSUE COAL LEASES TO FOREIGN INTERESTS"

3. Page 1, line 7.
Following: line 6
Strike: "AND"

4. Page 1, line 14.
Following: "leases"
Insert: ":"

5. Page 1, line 15.
Following: line 14
Insert: "(1) to any corporation the majority stock of which is controlled by interests foreign to the United States, except [illegible]

interests within countries whose borders are contiguous to the United States; or"

6. Page 1, line 19.
Following: line 18
Insert: "(2)"

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The House on 4/14/81, dissolved the Conference Committee, and the Speaker was authorized to appoint a new Conference Committee, and the House respectfully requests the Senate to appoint a like committee to confer on House Amendments to Senate Bill No. 33.

The Speaker appointed the following members:

Representative Seifert, Chairman
Representative Anderson
Representative Huennekens

The House on 4/14/81, dissolved the Free Conference Committee, and the Speaker was authorized to appoint a new Free Conference Committee and the House respectfully requests the Senate to appoint a like committee to confer on House Amendments to Senate Bill No. 243.

The Speaker appointed the following members:

Representative Curtiss, Chairman
Representative Asay
Representative Shontz

The House on 4/14/81, authorized the Speaker to appoint a Conference Committee on House Amendments to Senate Bill No. 129.

The Speaker appointed the following members:

Representative Jensen, Chairman
Representative Wallin
Representative Pavlovich

The House on 4/14/81, authorized the Speaker to appoint a Conference Committee on House Amendments to Senate Bill No. 483.

...igned the following measures this

345, 125, 291, 55, 321, 481, 72, 57, 468, 436, 456,

Sincerely,

TED SCHWINDEN
Governor

April 13, 1981

...rnage

...larks

...S GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 367

1. Page 1, line 5.
Following: "ACT"
Strike: "TO ALLOW THE BOARD OF"

2. Page 1, line 6.
Following: line 5
Strike: "LAND COMMISSIONERS TO ISSUE COAL LEASES TO FOREIGN INTERESTS"

3. Page 1, line 7.
Following: line 6
Strike: "AND"

4. Page 1, line 14.
Following: "leases"
Insert: ":"

5. Page 1, line 15.
Following: line 14
Insert: "(1) to any corporation the majority stock of which is controlled by interests foreign to the United States, except for

LC 2083/01

47th Legislature

INTRODUCED BY Eck

BILL NO. 367

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE BOARD OF LAND COMMISSIONERS TO ISSUE COAL LEASES TO FOREIGN INTERESTS AND TO ALLOW THE SALE OF COAL MINED UNDER LEASES FROM THE BOARD OF LAND COMMISSIONERS TO FOREIGN PERSONS; AMENDING SECTION 77-3-305, MCA; AND REPEALING SECTION 77-3-315, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-3-305, MCA, is amended to read:

"77-3-305. Limitations on leasing. The board shall not issue leases:

(1) to any corporation the majority stock of which is controlled by interests foreign to the United States, except for those interests within countries whose borders are contiguous to the United States; or

(2) if after a determination of the amount, location, and quality of the coal on the lands for lease, the extraction of the coal from such lands by strip-mining methods would adversely affect the methods of recovery of deep minable coal from such operations on such lands in the future."

Section 2. Repealer. Section 77-3-315, MCA, is repealed.

-End-

Check with Dept. of State to see if Senate passed

NAME: J. C. SPALDING DATE: 4/14/83

ADDRESS: P.O. Box 2463, Houston, Texas 77001

PHONE: (713) 241-1751

REPRESENTING WHOM? Shell Oil Company

APPEARING ON WHICH PROPOSAL: SB 67

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: J.D. Mockler DATE: 1/14/83

ADDRESS: 2301 Colonial Dr.

PHONE: 442-6223

REPRESENTING WHOM? MT. Coal Council

APPEARING ON WHICH PROPOSAL: SB 67

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Toni Kelley DATE: 12/14/83

ADDRESS: 711 Yellowstone Trail, Deer Lodge, MT 59722

PHONE: 846-3269

REPRESENTING WHOM? Northern Plains Resource Council

APPEARING ON WHICH PROPOSAL: S.B. 67

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

There were no further proponents.

OPPONENTS: Chairman Dover called for opponents. There were none.

Committee members had no questions and hearing was closed on SB 101.

ACTION ON SENATE BILL 67: Chairman Dover asked for executive session on SB 67. Senator Halligan stated he proposed an amendment to the bill which would add the reciprocity clause which would give the board of commissioners authority to decide whether to allow coal to be removed or leased, and that Howard Johnson had drawn up the amendment, attached as Exhibit '2' Senator Van Valkenburg inquired who would determine if we had reciprocity with foreign interests. Senator Keating then stated the Sec. of Interior decides on who has reciprocity with the U.S, and he would assume the board would take care in their decisions. He stated he was hesitant because his bill had been to repeal the law restricting leases because coal is the only natural resource having that restriction, and it does not apply to oil or gas, and he thought it in best interest to repeal that. He preferred to just repeal the old law rather than amend this bill. Senator Eck stated she had a request for more information from the Governor regarding his opinion. Senator Van Valkenburg stated he had some discussion with the Governor's staff but had not spoken directly to him. He had been advised that Senator Halligan's amendment would make the bill much more palatable. Senator Mohar pointed out that this would still be removing the old language, even though the new language is being inserted. Senator Keating then suggested also amending the title to insert the word modify in place of remove. Senator Halligan moved the proposed amendment to add the reciprocity clause shown in his exhibit. Roll call vote was taken, motion carried. Senator Keating then moved to amend the title, line 4, strike "remove" and insert "modify", vote was called, all present voted aye and motion carried. Senator Keating then moved to pass Senate Bill 67 as amended, vote was called, all present voted aye and motion carried.

ACTION ON SENATE BILL 101. Chairman Dover called for executive action. Senator Keating moved Senate Bill 101 do pass. Senator Van Valkenburg moved to amend SB 101 as proposed by Mr. Flynn, to make the reference in the statute consistent to earlier sections, page 9, line 3, strike "1" and insert "2". Vote was called on the amendment, all present voted aye and motion carried.

(Action on SB 101)
Senator Keating then moved that Senate Bill 101 do pass as amended, all voted aye and motion carried.

ADJOURN: Senator Dover announced hearing on SB 164 for Friday. There being no further business to come before the committee the meeting was duly adjourned at 1:30 pm.

Harold L. Dover

SENATOR HAROLD L. DOVER, CHAIRMAN
Senate Natural Resources Committee

Patricia Hatfield

Patricia Hatfield
Committee Secretary

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 1-24-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)		✓	
MANNING, Dave (D)	✓		
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓		
STORY, Pete (R)	✓		
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

Proposed amendment to introduced Senate Bill 67

1. Page 1
Following: line 16
Insert: (1) to any citizen of another country or any person, partnership, corporation, association or other legal entities controlled by interests foreign to the United States unless such country provides for similar or like priviledges to citizens of the United States.

2. Page 1
Line 17
Following: ~~(2)~~
Insert: (2)

STANDING COMMITTEE REPORT

SENATE COMMITTEE NATURAL RESOURCES January 19 83

Date 1-26-83

MR. PRESIDENT Bill No. 67

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 67

HALLIGAN, Mike (D)

KEATING, Thomas F. (R)

LEE, Gary P. ()

MANNING, Dave (D)

MOHAR, John (D)

SHAW, James N. (R)

VAN VALKENBURG, [illegible] (D)

Respectfully report as follows: That SENATE Bill No. 67

introduced bill, be amended as follows:

1. Title, line 4.
   Following: "TO"
   Strike: "REMOVE"
   Insert: "MODIFY"

2. Page 1
   Following: line 16
   Insert: "(1) to any citizen of another country or any person, partnership, corporation, association or other legal entities controlled by interests foreign to the United States unless such country provides for similar or like privileges to citizens of the United States."

3. Page 1, line 17
   Following: ~~(2)~~
   Insert: (2)

And, as so amended,
DO PASS

SENATOR HAROLD L. DOVER, Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE COMMITTEE SENATE NATURAL RESOURCES

Date 1-24-83 Bill No. 67 Time 1:25

NAME	YES	NO
ECK, Dorothy (D)	✓	
HALLIGAN, Mike (D)	✓	
KEATING, Thomas F. (R)		✓
LEE, Gary P. (R)	Absent	
MANNING, Dave (D)	✓	
MOHAR, John (D)	✓	
SHAW, James N. (R)	✓	
STORY, Pete (R)	out of room	
TVEIT, Larry J. (R)	✓	
VAN VALKENBURG, Fred (D)	✓	
ETCHART, Mark (R) Vice Chairman	✓	
DOVER, Harold L. (R) Chairman		✓

Patricia A. Hatfield
Secretary
Patricia A. Hatfield

Harold L. Dover
Chairman
Harold L. Dover

Motion: Amend SB67 to add Reciprocity clause.

(include enough information on motion--put with yellow copy of committee report.)

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
March 2, 1983

The House Natural Resources Committee convened at 12:30 p.m. on March 2, 1983, in Room 224A of the State Capitol, with Chairman Harper presiding and all members present except Rep. Nordtvedt, who was absent. Chairman Harper opened the meeting to a hearing on Senate Bill 67.

SENATE BILL 67

SENATOR THOMAS KEATING, District 32, chief sponsor, said the measure before the committee was in a bill two years ago and it repealed the prohibition that foreign corporations cannot hold state coal leases. He said it passed the Senate and the House and then was vetoed by the Governor. He said the Governor said it went beyond the federal allowances of foreign corporations holding United States land. The federal restriction says if a foreign country has reciprocal agreements with this country there are no restrictions on them for holding a lease. Senator Keating said this is a similar bill except the Senate Committee felt it should not be a repealer but have similar reciprocal language in it as the federal law. Senator Keating said what is being dealt with is the right to hold a coal lease on state lands. He said there is no prohibition against a foreign corporation holding a state oil and gas lease. He said Shell Oil and Gas is primarily held by the Netherlands and is one of the largest lease holders in the state of Montana. He said they employ about 230 people in the state and they are a good neighbor, but under our law they cannot have a state coal lease. Senator Keating said to have a successful coal operation usually requires leases on several thousands of acres. State leases are usually scattered throughout and in plots of not over 640 acres. He said private and federal are usually this size, also, so to get together a mining plan the operator needs to obtain leases from state lands as well as federal and private. He said it takes a great deal of capital investment to develop a coal mine and, since our capital sources are restricted and we need outside sources of investment, we shouldn't be too particular where that money comes from if it is going to provide jobs for our people and additional revenue. In the oil and gas business 90 percent of the investment comes from outside Montana. He asked the committee to concur in their recommendation of the bill.

JEROME ANDERSON, Shell Oil Company, said since the controlling interests in the company are from the Netherlands, there is no doubt they would be considered a foreign corporation. He said they employ 36,000 people in the United States. He said they are preparing to open coal mines in Texas and Montana. He said they have been in production in the United States for 32 years and currently have oil and gas leases in Montana, including 140,000 state acres. He said they daily produce 24,300 barrels of crude and 66 mcf of natural gas, and this is one-third of the total oil and crude production in Montana.

So, he said, they are a significant taxpayer. He said this shows that Shell has made an effort to be a good citizen in the United States and Montana and has made a valuable contribution to the industrial development of Montana.

JAMES D. MOCKLER, Montana Coal Council, spoke in support. He said there are large blocks of federal coal being put up for lease and this would involve state school sections to get a logical mining plan. He said Shell has the right to bid on the federal leases but not the state leases. He said if they find a coal seam 30 feet deep and have to skip the state section this could mean a loss to the state in royalties of 54 million and add 105 million more in lost coal severance tax. He said the bill is now in compliance with the federal law and should answer any questions the Governor had with the former bill.

There were no opponents.

SENATOR KEATING closed. He said one thing he would like to share with the committee is in regards to coal mining. He said in watching the activity in our state and knowing the need we have for additional revenue, it seems incongrous to have a 30 percent severance tax on coal. He said Wyoming has an 18 percent severance tax. He said Wyoming's tax revenue was $180,000,000 last year and ours was $90,000,000 - half the revenue with twice the tax. He said we have 1200 mining jobs and they have 6,000 jobs in Wyoming. He said he would like to make a plug that maybe we are not developing all the natural resources we could. He said if we could encourage some more mining of coal it could be to our advantage.

Questions were asked by the committee.

Rep. Jensen asked if the Senator felt we should lease our state lands for the same amount that they leased their state lands for. Mr. Mockler said the leases are similar.

Rep. Ream asked how the new language in the bill would change the status with Shell. Mr. Anderson said it would permit Schell to lease coal on state lands as we have a reciprocal agreement between the United States and the Netherlands.

It was asked if this would change our relationship with Canada and Mexico and the answer was no.

Rep. Addy asked if the State Land Department had a stand on this bill as they had not been present. Mr. Mockler said they took no position on the bill. He said he had talked with them.

Chairman Harper closed the hearing on this bill. Vice-Chairman Ream took the chair as Chairman Harper had to leave.

MEMORANDUM

TO: HOUSE NATURAL RESOURCES COMMITTEE MEMBERS

FROM: JOHN CARTER

RE: BILL SUMMARIES FOR SBs 67, 101, 118

DATE: March 2, 1983

SB 67
Keating

This bill seeks to modify an existing limitation on the leasing of state lands to foreign interests for coal mining purposes. In addition to expanding the limitation to include noncorporate as well as corporate entities, the bill would provide an exception for foreign entities whose parent country does not restrict United States entities from acquiring similar interests in his country.

SB 101
Graham

This bill seeks to clarify existing code sections that pertain to human health and natural resources. (See bill summary prepared by code commissioner.)

SB 118
Towe

This bill seeks to require the Commissioner of State Lands to hold a public hearing prior to the sale or transfer of federal lands if it is determined that the transfer of such lands would have an adverse impact on the state.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 67 DATE March 2, 1983

SPONSOR Senator Keating

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Jerome Anderson	Billings Mt.	Shell Oil Company	X	
Bonnie Tippay	Helena	MT Coal Council	X	
J Keating	Billings	Sen Dist #32	X	
D. MacKay	Helena	MT. Coal Counc./	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

STANDING COMMITTEE REPORT

March 6, 1983

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 67

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE LIMITATION THAT THE BOARD OF LAND COMMISSIONERS MAY NOT ISSUE COAL LEASES TO FOREIGN INTERESTS; AMENDING SECTION 77-3-305, MCA."

Respectfully report as follows: That SENATE Bill No. 67

BE CONCURRED IN

~~XXXXXX~~ DO PASS

KARL HARPER
Chairman.

STATE PUB. CO.
Helena, Mont.

SECRETARY

Rep. Mueller said if for no other reason we should kill the legislation due to lack of funds - why should we spend one nickel of state money on something nice to do when it doesn't look like we are going to have enough money to take care of people. He said we had to watch our priorities.

Rep. Mueller added that with the Forest Service if the county fathers object to the sale o. exchange of land 9 out of 10 times the objection rules and the deal is dead. He said he knows the Forest Service was responsive to the local county fathers.

Chairman Harper said the local people should have an opportunity for input. He said he doesn't know enough about the BLM agency and the magnitude of this.

Rep. Jensen said at least we would get a public exposure of the secrecy and try to bring decisions out from behind closed doors.

Rep. Bergene said she was unable to get her reading done. The feeling of the committee was the same - that they would like more time on this subject so Rep. Mueller changed his motion to that the bill be TABLED for the time being. This motion carried with all present voting yes except Rep. Ream who voted no and absent were Reps. McBride, Fagg and Quilici.

SENATE BILL 67 Rep. Jensen moved BE NOT CONCURRED IN. He said there is controversy surrounding foreign coal leases. He said the question of foreign domination of our natural resources has been a long and black chapter in our history. He said he felt uncomfortable about Japan getting control of our coal.

Rep. Nordtvedt said he has a Datsun and a Mazda and we need to balance our trade. He said this could be an excellent tool to add to our efforts to open up trade barriers in Japan. He said everybody benefits from free trade. He said besides they would be taking the coal and burning it elsewhere.

Rep. Asay said the fact is they can buy private and federal coal now. He asked if we were some sort of purist.

Rep. Mueller said since they can lease private and federal land they might skip over the state section, if it happens to fall between, and so deprive the state of Montana from some income and the use of the product and leave it with an uneconomic situtaion. He said it makes good sense. National trade must be a two-way street. He said we are burying our head in the coal.

Rep. Jensen said the question philosophically is whether we want to encourage Montana to become an industrialized state or to remain an agricultural state. He said this would be one more domino down. He said eastern Utah has become heavily industrialized and he would hate to see the state of Montana allow that same sort of thing to happen for a short term financial interest.

John Carter, Researcher, was asked to explain what present law does in this area. Mr. Carter said under existing law the only foreign business organization prevented from doing business is a corporation and there are ways to circumvent that, for instance, forming limited partnerships. He said the bill is actually tighter than existing law. Mr. Carter said right now an individual from a foreign country could come in with their own money to bid on leases.

The question was called and the motion failed with Reps. Veleber, Jensen and Ream voting yes and absent were Reps. Fagg, McBride and Quilici.

Rep. Jensen moved to reverse the vote and this motion carried and so SB 67 receives a BE CONCURRED IN recommendation.

Meeting adjourned at 1:35 p.m.

Respectfully submitted,

HAL HARPER, CHAIRMAN

Emelia A. Satre, Sec.